IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3976 of 2007

For Approval and Signature:

HON'BLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DHANDHUKA ROHIDAS SAMUDAYIK AGRICULTURE COOP SOC.LTD. - Petitioner(s)

Versus

STATE OF GUJARAT NOTICE TO BE SERVED UPON & 1 - Respondent(s)

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Appearance :
MR GM AMIN for Petitioner
MR JK SHAH AGP for Respondents

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 24/04/2007

ORAL JUDGMENT (Per: HON'BLE MR.JUSTICE J.M.PANCHAL)

1. Rule. Mr.J.K.Shah, learned Assistant Government Pleader, waives service of notice on behalf of the respondents. Having regard to the facts of the case, the petition is heard today.

2. By filing the instant petition under Article 226 of the Constitution, Mr.Dahyabhai Samabhai Zala, who is the Secretary of Dhandhuka Rohidas Samudayik Agriculture Cooperative Society Limited, has prayed to issue an appropriate writ or order calling upon the respondents to decide the petitioner's application filed under Section 28-A of the Land Acquisition Act, 1894 (“the Act” for short) on January 2, 2006, with reference to land bearing Survey No.90/2 situated in the Sim of Dhandhuka Town, Taluka: Dhandhuka, District: Ahmedabad, forthwith.

3. Survey No.90/2 of Dhandhuka Town belonged to Dhandhuka Rohidas Samudayik Agriculture Cooperative Society Limited. Along with other lands, the said survey number was needed for a public purpose. Therefore, Notification under Section 4 of the Act was issued which was published in the official gazette on June 4, 1993. Thereafter, necessary inquiry was made under Section 5 of the Act and on receipt of the report from the Special Land Acquisition Officer, as contemplated by Section 5A(2) of the Act, necessary declaration was made which was published in the official gazette on June 1, 1994. The interested persons were thereafter served with notices for determination of compensation. Accordingly, the claimants appeared before the Special Land Acquisition Officer and claimed compensation at the rate of Rs.100/- per sq.mt. However, having regard to the materials placed before him, the Special

Land Acquisition Officer, by his award dated May 30, 1996, offered compensation to the claimants at the rate of Re.1/- per sq.mt. Some of the claimants were aggrieved by the offer of compensation made by the Special Land Acquisition Officer. Therefore, they had sought References. Accordingly, Reference were made to the District Court, Ahmedabad (R) at Navrangpura, where they were registered as Land Acquisition Case Nos.2670/1996 to 2680/1996. The learned 4th Additional Senior Civil Judge, Ahmedabad (R) at Navrangpura, by judgment and award dated October 29, 2005, partly allowed the References by holding that the claimants were entitled to get additional amount of compensation at the rate of Rs.63/- per sq.mt. A copy of the award rendered by the Reference Court is produced by the petitioner at Annexure-A to the petition. The petitioner was aggrieved by the offer of compensation

made by the Special Land Acquisition Officer but had not submitted application under Section 18 of the Act requiring the Special Land Acquisition Officer to refer its case to the Court for the purpose of determination of just amount of compensation payable to it. Therefore, in terms of Section 28-A of the Act, the petitioner submitted an application on January 2, 2006, and requested the Special Land Acquisition Officer to re-determine the amount of compensation payable to it on the basis of the award of the Court. The grievance made in the instant petition is that though the application under Section 28-A of the Act was made on January 2, 2006, the same is not decided till date. Under the circumstances, the petitioner has filed the instant petition and claimed reliefs to which reference is made earlier.

4. This Court has heard the learned counsels

for the parties. Earlier, it was pointed out by the learned Assistant Government Pleader for the respondents that the application dated January 2, 2006, submitted under Section 28-A of the Act was not decided because the award of the Reference Court rendered in Land Acquisition Case Nos.2670/1996 to 2680/1996 was challenged before the High Court. However, the record shows that First Appeals No.1993/2007 to 2003/2007 directed against the award rendered in Land Acquisition Case Nos.2670/1996 to 2680/1996 were dismissed by the High Court vide order dated April 16, 2007. As the Appeals filed against the award rendered by the Reference Court are disposed of, this Court is of the opinion that interest of justice would be served if the respondent No.1 is directed to decide the application dated January 2, 2006, submitted under Section 28-A of the Act as early as possible and make the

payment of amount of compensation to the petitioner within three months from today.

5. For the foregoing reasons, the petition succeeds. The Special Land Acquisition Officer, Narmada Yojna, Unit No.3, Narmada Vasahat, Vejalpur, Ahmedabad, is directed to decide the application dated January 2, 2006, submitted by the petitioner under Section 28-A of the Act immediately and without any avoidable delay. The said respondent is further directed to make payment of the amount of compensation which may be found payable to the petitioner within three months from today. Rule is made absolute to the extent indicated hereinabove. There shall be no orders as to costs.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

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